

May 15, 2006

To: Section 1813 Right of Way Study Committee
From: Rob Roberts, Public Service Company of New Mexico
Subject: Comments on Section 1813 Right of Way Study

Public Service Company of New Mexico (PNM) appreciates this opportunity to submit final comments to the Section 1813 Right of Way Study Committee.

PNM supplies electric power and natural gas services to thousands of business and residential customers in New Mexico and Texas. PNM has right of way agreements with 19 different tribes within PNM's service territory. Hundreds of miles and thousands of acres of right of way (row) for PNM electric and natural gas transmission lines and distribution lines are located on Native American Lands, as are PNM gas regulator stations and electric switching stations and electric substations.

PNM has determined that within the next 15 years, PNM must renew approximately 95 row permits with various tribes. These row renewals range from high voltage electric transmission lines and high pressure natural gas transmission lines to low level distribution electric and gas lines. Nearly all will require lengthy negotiations and substantial row payments by PNM.

The fact that PNM must renew such a large number of rows poses a huge undertaking for the company. Based on past experience, the potential financial costs to PNM are extremely high. If current row renewal cost trends continue, PNM customer rates could be impacted. It is believed that other utility companies also face an increasing number of row renewals during the next 15 to 20 years.

PNM is most concerned about the uncertainties involved in each row renewal negotiation PNM faces. Each tribe is different. Each Pueblo is different. Each tribal governor and each tribal council is different. Each consultant and attorney for each Pueblo is different. Each Pueblo tends to value its right of way differently. However, the tribal governments do share common ground in that there is a growing trend among them to seek increasing right of way renewal costs and shorter right of way terms for renewals.

PNM recognizes the sovereignty of its tribal neighbors, and PNM is not seeking power of condemnation over tribal lands. However, PNM does believe that the row renewal system needs a greater level of certainty and objectivity. To this end, PNM proposes that a row renewal valuation system be implemented which recognizes the unique sovereign status

of the tribes, but one which offers more certainty to industry and its customers. An example would be for rows to be appraised by a neutral appraiser, and then require industry to pay a multiple of such appraised value. Obviously, there are other row renewal valuation methods which recognize tribal sovereignty but still offer industry and its customers a greater degree of certainty involving right of way renewals. It is hoped that these will also be explored by the study committee and participants in the Section 1813 process.

PNM thanks the Section 1813 Row Study Committee for the diligence and seriousness with which it has assumed the study process. No easy task. Furthermore, PNM is willing to be an active player with tribal representatives and other Section 1813 participants in the future in hopes that common ground can be found on this very important issue.

Any questions may be directed to:

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